

Court of Appeals, State of Michigan

ORDER

City of Detroit Police & Fire Retirement Sys v GSC CDO Fund Ltd

Docket No. 289185

LC No. 08-108699-NZ

Patrick M. Meter
Presiding Judge

E. Thomas Fitzgerald

Kirsten Frank Kelly
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is GRANTED. The order dated December 19, 2008, is VACATED, and the claim of appeal is REINSTATED.

Because the November 11, 2008 circuit court order being appealed, in combination with the August 22, 2008 circuit court order, had the effect of referring all claims in this case to arbitration the November 11, 2008 order was a final order under MCR 7.202(6)(a)(i). *Rooyakker & Sitz, PLLC v Plante & Moran, PLLC*, 276 Mich App 146; 742 NW2d 409 (2007). Thus, the November 11, 2008 order is appealable of right. MCR 7.203(A)(1). The analysis in *Detroit v Michigan*, 262 Mich App 542, 545; 686 NW2d 514 (2004), is distinguishable because the reason the order dismissing claims without prejudice in that case, which did not involve referring any claims to arbitration, did not constitute a final order was that the claims could be revived with further substantive proceedings on those claims in the circuit court. In contrast, the November 11, 2008 order does not allow for further substantive circuit court proceedings on the merits of the claims it referred to arbitration. The language of the November 11, 2008 order stating that those claims were dismissed without prejudice merely reflects that the merits of those claims would be resolved in arbitration and thus did not preclude that order from being a final order under MCR 7.202(6)(a)(i).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 09 2009

Date

Sandra Schultz Mengel
Chief Clerk